IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 11.12.2007

Coram:-

The Hon'ble Mr. Justice P.D.DINAKARAN
and
The Hon'ble Mr. Justice R.REGUPATHI

Habeas Corpus Petition No.1476 of 2007

ShakieMohamed ... Petitioner

vs.

1. The Secretary to the Government,
Food, Co-operation and
Consumer Protection Department,
Chennai 600 009.

2. The District Collector and
District Magistrate,
Krishnagiri District,
Krishnagiri.

3. The Secretary to the Government,
Food and Consumer Protection Department,
Government of India, New Delhi. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 12.09.2007 in S.C. No.(CS) 27/2007 against petitioner's brother Safiyullah, son of Mohamed Abdul Kader, aged about 46 years, who is confined at Central Prison, Salem, and set aside the same and direct the respondents to produce the detenu before Court and set him at liberty.

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For Petitioner : Mr.V.Parthiban
For Respondents 1 & 2 : Mr.N.R.Elango,
Addl. Public Prosecutor.
For Respondent No.3 : Mr.P.Kumaresan
Addl. Central Govt.
Standing Counsel.

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O R D E R

(Delivered by P.D.DINAKARAN, J.)

The petitioner herein challenges the impugned order of detention, dated 12.09.2007, whereby, his brother by name Safiyulla has been detained as 'Black Marketer' as contemplated under the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act 1980 (Central Act 7 of 1980).

2. The ground on which the detention order came to be passed is that on 08.09.2007, at 6 A.M., the Inspector of Police, Civil Supplies C.I.D., Special Tahsildar, Flying Squad, Krishnagiri, Special Revenue Inspector, Flying Squad, Krishnagiri and the police party were conducting vehicle check near Nalanda School, Krishnagiri, regarding illegal transportation of essential commodities and they stopped a lorry bearing Registration No.TN-45 E-6899 and found 300 bags of P.D.S. rice being transported therein illegally. The Inspector of police arrested the detenu, the owner of the rice and also the Driver and Cleaner of the Lorry. The confession statement of the detenu revealed that he used to purchase PDS rice, hoard the same at small godowns, transport it to Karnataka and derive small benefits therefrom. The Inspector arrested the detenu, seized the contraband as well as the lorry and registered a case against the detenu in Civil Supplies CID Cr. No.488 of 2007 for offences under Section 6(4) of TNSC (RDCS) of 1982 read with 7(i)(a)(ii) of EC Act, 1955. The detaining authority, on arriving at a subjective satisfaction that the detenu acted in a manner prejudicial to the maintenance of supplies of essential commodities to the public, passed the impugned order of detention as against the detenu, branding him as 'Black Marketer'.

3. Learned counsel for the petitioner at the foremost, by pointing out that the Detaining Authority, in the grounds of detention has stated that the detenu was heard in person by the Detaining Authority on 10.09.2007 and, in the enquiry, the allegations made against him was found to be true; would submit that the Detaining Authority has failed to serve documents relating to such enquiry, which are very vital in nature. That being so, non-furnishing of documents vital in nature prejudiced the detenu to a great extent as he was prevented from making an effective representation.

4. We have carefully considered the contention raised by the learned counsel for the petitioner. In para No.2 of the grounds of detention, the Detaining Authority has stated thus,

> " 2) .....
> The accused Thiru. Safiyulla was heard in person by the detaining authority on 10.9.2007. It

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is proved from the enquiry that the offences registered against the accused are found to be true.
"

From the above, it is very much apparent on the face of the records that the Detaining Authority had relied upon the documents pertaining to the enquiry conducted on 10.09.2007; if that be so, it is the bounden duty of the Detaining Authority to supply all relevant documents connected with the enquiry to the detenu. As could be seen, the detenu has not been supplied with such documents; thus, as rightly pointed out, he was deprived from making an effective representation. In this view of the matter, we are of the considered view that the ultimate detention order passed by the Detaining Authority has to be quashed.

5. Consequently, the Habeas Corpus Petition is allowed and the order of detention is quashed the and the detenu is directed to be set at liberty forthwith from custody unless he is required in connection with any other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

JI/sra.

To

1. The Secretary to the Government,
Food, Co-operation and Consumer Protection Department,
Chennai 600 009.

2. The District Collector and
District Magistrate, Krishnagiri District,
Krishnagiri.

3. The Secretary to the Government,
Food and Consumer Protection Department,
Government of India, New Delhi.

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4. The Superintendent of Central Prison, Salem.

5. The Public Prosecutor, High Court, Madras.

6.The Joint Secretary to Government,
Public (Law and Order)
Fort St. George, Chennai-9.

+1cc to Mr.C.Prakasam, Advocate Sr 73324

LA(CO)
km/4.1.

HCP No.1476 of 2007.

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